

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Oct 26, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,
Plaintiff,

-vs-

DAVID ARTHUR HAMILTON,
Defendant.

No. 2:16-CR-0150-WFN-1

ORDER REDUCING SENTENCE

Pending before the Court is Defendant's Motion to Reduce Sentence. ECF No. 77. The parties agree that Defendant's sentence should be amended to time served with five years of supervised release. As a condition of release, the parties agree to one year of home confinement. ECF No. 78. Defendant has exhausted his claim with the Bureau of Prisons [BOP]. Mr. Hamilton must demonstrate that "(i) extraordinary and compelling reasons warrant such a reduction; or (ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c) . . . and a determination has been made by the Director of the Bureau of Prisons that the defendant is not a danger to the safety of any other person or the community, as provided under section 3142(g)." 18 U.S.C. § 3582(c)(1)(A). As Defendant is not over 70 years old, he must demonstrate that extraordinary and compelling reasons warrant reduction.

Defendant has demonstrated compelling reasons warranting a sentence reduction. Defendant suffers from health issues that significantly increase his risk of death if he contracts COVID-19. He has submitted documentation of several health conditions including aortic aneurysm, COPD, and sleep apnea. ECF No. 303. Evidence demonstrates that he faces an increased chance of serious illness and death if he were to contract COVID-19.

1 Upon review of the case it does not appear that Mr. Hamilton presents a danger to the
2 community. He does not have a history of use or carrying weapons. The underlying crime
3 was a drug trafficking crime. Mr. Hamilton is eligible for release to an RRC early next year.
4 Consequently, the Court concludes that Defendant has presented compelling reasons for a
5 modification of his sentence. The Court has reviewed the file and Motion and is fully
6 informed. Accordingly,

7 **IT IS ORDERED** that:

8 1. Defendant's Motion to Reduce Sentence, filed October 8, 2020, **ECF No. 77**, is
9 **GRANTED**. An amended judgment reflecting the parties' agreed disposition will be filed
10 contemporaneously with this Order.

11 2. Defendant shall be **IMMEDIATELY RELEASED** from custody.

12 The District Court Executive is directed to file this Order and provide copies to
13 counsel.

14 **DATED** this 26th day of October, 2020.

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WM. FREMMING NIELSEN
17 SENIOR UNITED STATES DISTRICT JUDGE

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